

## **EXHIBIT 12**

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE NORTHERN DISTRICT OF ILLINOIS  
3           EASTERN DIVISION  
4

5   DOROTHY FORTH, DONNA BAILEY,       )  
6   LISA BULLARD, RICARDO GONZALES,    )  
7   CYNTHIA RUSSO, TROY TERMINE,       )  
8   INTERNATIONAL BROTHERHOOD OF       )  
9   ELECTRICAL WORKERS LOCAL 38        )  
10  HEALTH AND WELFARE FUND,            )  
11  INTERNATIONAL UNION OF OPERATING    )  
12  ENGINEERS LOCAL 295-295C WELFARE    )  
13  FUND, AND STEAMFITTERS FUND         )  
14  LOCAL 439, on Behalf of             )  
15  Themselves and All Others            )  
16  similarly Situated,                  )

17                   Plaintiffs,         )

18                   vs.                 )

19                   WALGREEN CO.,       )

20                   Defendant.         )

Case No.

1:17-cv-02246

21           The videotaped deposition of EDWARD FOX,  
22   taken before Maria S. Winn, CSR, RPR and CRR,  
23   pursuant to the Federal Rules of Civil Procedure  
24   for the United States District Courts pertaining  
to the taking of depositions, at Reed Smith,  
10 South Wacker Drive, Suite 4000, Chicago,  
Illinois, commencing at 9:22 a.m. on May 7, 2019.

1 documents for now.

2 In general, how did you go about  
3 preparing for the topics -- for testifying about  
4 the topics for which you will be providing  
5 testimony today on behalf of the Fund?

6 A I went through my own files, went through  
7 the topics with our attorney.

8 That was really the two points that I  
9 did. Just...

10 Q Did you speak with anyone else at the  
11 Fund?

12 A No. Because I mean, I would know the  
13 most information. I mean, the Fund office is only  
14 myself and three -- three clerks, so there's  
15 not -- we don't have a large staff. And I would  
16 have -- in my own personal files -- would have the  
17 most information than anybody in the Fund would  
18 have.

19 Q So there's only four people who work for  
20 the Fund?

21 A Correct.

22 Q And three of those people provide more  
23 administrative tasks?

24 A Correct.

1           he was -- okay. Good enough.

2       BY MR. LEIB:

3           Q     Did you talk with anyone outside of the  
4       Fund to prepare for this deposition, other than  
5       your attorneys?

6           A     No.

7           Q     And did you meet with your attorneys to  
8       prepare for this deposition?

9           A     I did last night for about an hour, hour  
10      and a half.

11          Q     About when did that meeting start?

12          A     Probably about 5:00 to about 6:30.

13          Q     So it started at about 5:00 and ended at  
14      about 6:30?

15          A     Yes.

16          Q     And that was here in Chicago?

17          A     Yes.

18          Q     Did you have any phone -- well, strike  
19      that.

20                Was that the only meeting you had with  
21      your attorneys to prepare for this deposition?

22          A     In person, yes.

23          Q     Did you have any phone conferences with  
24      your attorney to prepare for this deposition?

1           A       Yes.

2           Q       How many phone conferences did you have  
3 with your attorneys to prepare for this  
4 deposition?

5           A       Three.

6           Q       Let's talk about the first one.  
7 When did that take place?

8           A       I do not know the exact date, but  
9 probably about -- maybe three weeks ago.

10          Q       And who was on that call?

11          A       Joe Gulian -- is that right?

12                 And then Don came in on some of the  
13 calls. I don't know which ones he act- -- if it  
14 was the first, second, or third one that Don was  
15 on, but definitely not the last one. But I think  
16 Don was on the second one.

17          Q       And about how long did that call take  
18 place?

19          A       About an hour.

20          Q       Did you go over any documents during that  
21 phone call?

22          A       During the phone call, no. No, because I  
23 didn't have any documents in front of me, no.

24          Q       When did the second phone call

1           A       Well, initially, it was Brittany, like,  
2       Wheatall, and then she has actually moved on and  
3       we've got a new person. I just met her, but I  
4       can't remember her name.

5           Q       This document also says that Caremark PCS  
6       has knowledge of the claims that the Fund is  
7       asserting in this case from 2004 to present.

8                   Do you know what knowledge Caremark PCS  
9       would have about the claims that the Fund is  
10      asserting in the case?

11          A       I mean, I requested claims data from  
12      them, so that's all the knowledge that I would  
13      know that they would have.

14          Q       As part of this litigation, you requested  
15      information from them?

16          A       Correct.

17          Q       Has anyone at the Fund discussed the  
18      allegations of the case with anyone at Caremark  
19      PCS?

20          A       No.

21          Q       On the prior page, it lists at the bottom  
22      Caremark, LLC.

23                   Do you know what the difference between  
24      Caremark PCS and Caremark, LLC, is?

1 MR. LEIB: I'm not agreeing that this is  
2 outside the scope. But we can have --

3 MR. GUGLIELMO: You're asking him  
4 questions on behalf of his personal knowledge,  
5 which is the 30(b)(1).

6 So again, I'm not objecting to the  
7 questions now. I'm just noting for the record  
8 that it's outside the scope of the notice.

9 You can ask your questions.

10 BY MR. LEIB:

11 Q Have you reviewed the contract between  
12 Express Scripts and Local 310?

13 A I mean, once again, we have coalition  
14 pricing with that as well. So I mean, ultimately,  
15 the base contract for that, you know, is done --  
16 is done by the labor Rx coalition, and we just  
17 sign on to it with what our plan design is.

18 Q Have you read that labor Rx coalition  
19 contract?

20 A No.

21 Q And you understand the Fund's seeking to  
22 bring this case as a class action, right?

23 A Yes.

24 Q And do you know what a class action is?

1           A       Yes.

2           Q       Can you give me a description?

3           A       It's where a group of parties, whether  
4 individuals or entities, come together who have  
5 been harmed and seek damages on a particular  
6 matter.

7           Q       You know the Fund is a named plaintiff in  
8 this class action, correct?

9           A       Yes.

10          Q       Do you know what that means, to be a  
11 named plaintiff?

12          A       The named plaintiff -- in layman's terms  
13 that I understand, that we're going to -- you  
14 know, we're going to litigate it for all the other  
15 people that have been harmed, that aren't named  
16 parties.

17          Q       And do you understand the Fund's  
18 obligation as a class representative?

19          A       So I mean, we are fiduciary to the class,  
20 I mean, that we have to, you know, provide the  
21 information and then to -- how we've been harmed,  
22 and then that will be brought -- let's see how to  
23 explain it.

24                   So then how -- how -- what damages we



1       have will -- can be calculated in some format, and  
2       then the other parties who are part of the class,  
3       who are not named, can also obtain damages as  
4       well.

5               That's -- I mean, I'm not an attorney, so  
6       I don't really...

7               Q       Does the Fund have any financial  
8       obligations as a class representative?

9               A       Obligation? Like financial obligation?  
10       No.

11              Q       Is the Fund paying its lawyers anything?

12              A       No.

13              Q       Is the Fund being reimbursed for your  
14       travel today, or for your travel to be here today?

15              A       Well, I mean, Scott & Scott paid for my  
16       airline tickets.

17              Q       And is Scott & Scott paying for your  
18       hotel?

19              A       They haven't yet, but I am going to send  
20       them the bill.

21              Q       And do you understand that they will,  
22       correct?

23              A       Correct.

24              Q       Are you personally, or is the Fund being

1 (Document previously marked as  
2 Defendant's Exhibit No. 13 for  
3 identification.)

4 BY MR. LEIB:

5 Q Do you recognize this document?

6 A Yes. This is the amended responses and  
7 objections.

8 Q Well, that's what it says. I'm asking  
9 you if you recognize it.

10 A Yes.

11 Q Have you seen it before?

12 A Yes.

13 Q Did you read the responses to these  
14 interrogatories?

15 A Yes.

16 Q Do you see that there's a verification on  
17 here? I think it's the third-to-last page.

18 Is that your signature?

19 A Yes.

20 Q And did you read the responses that  
21 pertain to the Fund before signing that  
22 verification?

23 A Yes.

24 Q And do you believe that the answers given

1       that pertain to the Fund in these interrogatories  
2       were accurate to the best of your knowledge?

3           A       Yes.

4           Q       We've talked a little bit about the  
5       collection of documents in this case.

6                   Can you tell me what you did -- strike  
7       that.

8                   You were asked -- is it correct you were  
9       asked by your attorneys to collect documents?

10          A       Yes.

11          Q       And they gave you a list of documents, or  
12       types of documents to search for, to provide to  
13       them?

14          A       Yes.

15          Q       And did you do that search?

16          A       I did.

17          Q       Did you enlist anyone else to help in  
18       that search?

19          A       No.

20          Q       Tell me what you did to search for  
21       documents to provide to your counsel in this case.

22          A       I mean, I just searched all my paper  
23       files that I had in my office, looking for  
24       anything that related to contracts, information

1 with regards to the Sav-Rx or the CVS Caremark  
2 information.

3 I mean, just -- I mean, I pulled  
4 everything and went through all my paper files,  
5 the -- Scott & Scott hired somebody to do a search  
6 of our hard drives based on key words.

7 But I just went through all the files  
8 that I had in my office and looked for anything  
9 that related to Sav-Rx and CVS Caremark.

10 Q Those were the only things that you  
11 looked for, things that related to Sav-Rx and CVS  
12 Caremark?

13 A Because they were our two prescription  
14 benefit managers, so those -- I couldn't think of  
15 anything else, you know, to look for. I mean...

16 Q Is the only paper files that you looked  
17 were -- are the ones in your office?

18 A Yes.

19 Q And when you say your office, do you mean  
20 your personal office as opposed to the Fund's  
21 offices?

22 A Well, I mean, I have a separate office in  
23 the 38 Fund office on the second floor.

24 Q And why don't you describe for me the

1 Ed Fox."

2 Do you see that?

3 A Yes.

4 Q Does this e-mail refresh your  
5 recollection of having knowledge and being  
6 involved in the process of the amendment of the  
7 complaint at issue in this case in or about April  
8 of 2017?

9 A Yes, it does.

10 Q Does it also refresh your recollection  
11 that you were provided a copy of the complaint on  
12 or before it was filed?

13 MR. LEIB: Objection.

14 MR. GUGLIELMO: You can answer.

15 A Yes.

16 BY MR. GUGLIELMO:

17 Q Okay. And with respect to this  
18 litigation, is it your understanding that IBEW has  
19 received quarterly updates from counsel about the  
20 status of the litigation?

21 A Yes.

22 Q And that those quarterly updates were  
23 received from the commencement of the litigation  
24 until present?

1           A       I mean, Walter would have received,  
2       maybe, the initial ones. But then thereafter, I  
3       would have received them.

4           Q       And is it fair to say that IBEW has been  
5       kept apprized of the filings in this case?

6           A       Yes.

7                   MR. GUGLIELMO: I have nothing further.

8                   MR. LEIB: Two quick lines of  
9       questioning.

10                               FURTHER EXAMINATION

11       BY MR. LEIB:

12           Q       With regard to Topic 11, which is on  
13       page 12 of Exhibit 65, do you see it says:

14                   "For each contract between IBEW and any  
15       PBMs that administered any IBEW health benefit  
16       plan, the administration and management actions  
17       available to the PBM under the contract."

18                   Do you see that?

19           A       Yes.

20           Q       Do you see it doesn't ask whether or not  
21       the PBM actually took any action. It only asks  
22       what actions are available to them.

23                   Do you see that?

24           A       Yes.

1 STATE OF ILLINOIS )

) SS:

2 COUNTY OF C O O K )

3  
4 The within and foregoing deposition of  
5 the aforementioned witness was taken before  
6 MARIA S. WINN, CSR, RPR and CRR, at the place,  
7 date and time aforementioned.

8 There were present during the taking of  
9 the deposition the previously named counsel.

10 The said witness was first duly sworn and  
11 was then examined upon oral interrogatories; the  
12 questions and answers were taken down in shorthand  
13 by the undersigned, acting as stenographer; and  
14 the within and foregoing is a true, accurate and  
15 complete record of all of the questions asked of  
16 and answers made by the aforementioned witness, at  
17 the time and place hereinabove referred to.

18 The signature of the witness was not  
19 waived, and the deposition was submitted,  
20 pursuant to Rule 30(e) and 32(d)4 of the Rules  
21 of Civil Procedure for the United States District  
22 Courts, to the deponent per copy of the attached  
23 letter.  
24

Page 301

The undersigned is not interested in the within case, nor of kin or counsel to any of the parties.

In witness whereof, I have hereunto set  
my hand and seal of office this day, May 8, 2019.

Maria S. Winn

CSR No. 084-003784 - Expiration Date: May 31, 2019